

May 12, 2006

**Ex Parte Notice**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Regulation of Prepaid Calling Card Services, WC Docket No. 05-68

Petition of Time Warner Cable for Declaratory Ruling That  
Competitive Local Exchange Carriers May Obtain  
Interconnection Under Section 251 of The Communications  
Act of 1934, as Amended, to Provide Wholesale  
Telecommunications Services to VoIP Providers, WC Docket No. 06-55

Dear Ms. Dortch:

On May 10, 2006, Adam Kupetsky of Level 3 Communications, LLC ("Level 3"), and John Nakahata, of Harris, Wiltshire & Grannis, LLP, on behalf of Level 3, met, in separate meetings, with: (1) Michelle Carey, Legal Advisor, and Ian Dillner, acting Legal Advisor, to Chairman Martin; (2) Scott Bergmann, Legal Advisor to Commissioner Adelstein; (3) Aaron Goldberger, Legal Advisor, and Dana Shaffer, Acting Legal Advisor, to Commissioner Tate regarding the proceedings referenced above.

With respect to WC Docket No. 05-68, Level 3 stated that, in the event the Commission decides that access charges apply to prepaid calling cards, the Commission should be clear that, when the call to the platform is a locally-dialed number provisioned as a DID service by a local exchange carrier ("LEC"), the jointly-provided access model applies, and the originating LEC would bill the platform provider (and not the LEC providing DID service) for access. Level 3 pointed out that the Commission could reach such a result

partly by clarifying language contained in the AT&T IP-in-the-Middle Order<sup>1</sup> or by referring to the FCC's decisions regarding payphone compensation.<sup>2</sup> Level 3 also urged that, if the Commission applies any decision retroactively, it should be clear about how that affects intercarrier payments retroactively.

With respect to WC Docket No. 06-55, Level 3 urged the Commission to act quickly on Time Warner's request. The Level 3 participants reiterated the points made in Level 3's Comments and Reply Comments in this docket. In addition, Level 3 stated that Section 253(a) of the Communications Act of 1934, as amended, prohibits state public utility commissions from taking actions that preclude entry, even in its selection of remedies. To comply with Section 253(a), therefore, even if the state commission correctly found that the CLEC (in the case of Nebraska, Sprint) was not offering service as a common carrier, the state commission nevertheless should have ordered interconnection and required the CLEC to offer the service it was providing to Time Warner on a common carrier basis as a condition of such interconnection.

Sincerely,

/s/ Adam Kupetsky

Adam Kupetsky  
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<sup>1</sup> Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, WC Docket No. 02-361, Order, FCC 04-97 (released April 24, 2004) ("AT&T IP-in-the-Middle Order") at ¶ 23 note 92.

<sup>2</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, 18 FCC Rcd 19975 (2003), at ¶¶ 20-21, 35.